

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KORY NIELSEN,

Petitioner,

v.

MAGGIE MILLER-STOUT,

Respondent.

Case No. C07-5192FDB

REPORT AND
RECOMMENDATION
TO DENY *IN FORMA*
PAUPERIS STATUS

NOTED FOR:
May 25, 2007

This habeas corpus action, filed pursuant to 28 U. S.C. 2254, has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and Local Magistrates' Rules MJR 3 and MJR 4. Petitioner is represented by counsel (Dkt. # 1).

The application shows petitioner to be employed in Correctional Industries. His attached prison account shows him to average approximately \$150 dollars income per month (Dkt. # 1). It appears petitioner can afford the \$5 Dollar filing fee for a Habeas Petition.

The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigence. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314

1 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

2 Plaintiff has not shown that is unable to pay the full filing fee to proceed with his petition.
3 Accordingly the court recommends the motion to proceed *in forma pauperis* be **DENIED**. A
4 proposed order accompanies this report and recommendation.

5 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
6 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed.
7 R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of
8 appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule
9 72(b), the clerk is directed to set the matter for consideration on **May 25, 2007**, as noted in the
10 caption.

11 DATED this 30 day of April, 2007.

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13 /S/ J. Kelley Arnold
14 J. Kelley Arnold
15 United States Magistrate Judge
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